

COMMUNITY EMPOWERMENT (SCOTLAND) ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4: Community rights to buy land

Insertion of Part 3A of Land Reform (Scotland) Act 2003: community right to buy abandoned, neglected or detrimental land

Part 3A community bodies

180. The new section 97D of the 2003 Act outlines the requirements which must be met by a body so that it is eligible to purchase land under Part 3A of the 2003 Act.
181. Subsections (1) to (4) specify that a Part 3A community body must be a company limited by guarantee, Scottish charitable incorporated organisation (SCIO) or community benefit society (BenCom), or any other type of body which Ministers specify in regulations. Subsections (1) to (4) also list the requirements which must be included in the body's articles of association, constitution or registered rules. If a body does not meet the applicable conditions imposed by subsections (1) to (4), it will not be a Part 3A community body and so will not be eligible to purchase land under Part 3A of the 2003 Act.
182. Subsection (5) allows Ministers to disapply the requirement that the articles of association, constitution or registered rules of a Part 3A community body must require that the body must have a minimum of 10 members.
183. Subsection (6) provides that a Part 3A community body is not defined as such until Ministers give their written consent that they are satisfied that the body's main purpose is consistent with furthering the achievement of sustainable development. Subsection (7) gives Ministers a power to amend the criteria which a company limited by guarantee, SCIO or BenCom must meet in order to be a Part 3A community body.
184. Subsection (9)(a) sets out that the articles of association, constitution or registered rules of a Part 3A community body must define the community to which it relates by reference to a postcode unit (or units) or a type of area which Ministers set out in regulations. A community may also be defined with reference to both of these things. Subsection (9)(b) provides that the community includes people who are resident in that postcode unit or in one of the postcode units or other areas set out by Ministers in regulations. In addition to being resident, members of the community must also be entitled to vote at local government elections in a polling district that encompasses that postcode unit or postcode units or the alternative areas set out by Ministers in regulations.
185. Subsection (11) specifies that the articles of association of a Part 3A community body may provide that its property may, in circumstances outlined in subsection (2)(h), pass to another person only if that person is a charity. Subsection (8) defines a charity for the purposes of this section as a body which is entered in the Scottish Charity Register.

186. Subsection (12) provides definitions of a “charity”, “community benefit society”, “company limited by guarantee”, “registered rules”, and “Scottish charitable incorporated organisation” for the purposes of this section.